

Hearing Date: October 16, 2018
Hearing Time: 2:00 p.m.
Objections Date: October 9, 2018

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK**

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In re:

ROBIN-ALEXIS BENJAMIN,

Debtor.
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Chapter 13
Case No.: 1-18-42101-cec

**NOTICE OF MOTION OBJECTING TO
CLAIM 10 OF INTERNAL REVENUE SERVICE**

PLEASE TAKE NOTICE, that on **October 16, 2018 at 2:00 p.m.** the undersigned will move before the Honorable Carla E. Craig, United States Bankruptcy Judge, at the United States Bankruptcy Court located at 271 Cadman Plaza East, Courtroom 3529, Brooklyn, New York 11201, or as soon thereafter as Counsel can be heard, for an Order i) disallowing the claim of INTERNAL REVENUE SERVICE ("Creditor") designated Claim 10 on the Claims Register, filed August 2, 2018 in the total amount of \$27,110.85; ii) allowing an administrative claim for Debtor's Counsel, Ronald D. Weiss P.C., in the amount of \$650.00; together with iii) such other and further relief as the Court deems just and proper.

PLEASE TAKE FURTHER NOTICE, that the Bankruptcy Court shall retain jurisdiction to determine all matters arising out of or relating to any objection to the relief requested in the application, and each person or entity making such an objection shall be governed by the conditions set forth by the Bankruptcy Court and subject itself to the jurisdiction of the Bankruptcy Court in reference to all matters arising out of its objection and all matters relating thereto.

PLEASE TAKE FURTHER NOTICE, that Objections to the Debtor's application must comply with the applicable Federal Rules of Bankruptcy Procedure, Local Bankruptcy Rules for the Eastern District of New York, and be filed on or before **October 9, 2018**.

Dated: Melville, New York
August 31, 2018

RONALD D. WEISS, P.C.
Attorneys for the Debtor

/s/ Ronald D. Weiss
Ronald D. Weiss, Esq.
734 Walt Whitman Road, Suite 203
Melville, New York 11747
(631) 271-3737

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK**

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In re:

Chapter 13
Case No.: 1-18-42101-cec

ROBIN-ALEXIS BENJAMIN,

Debtor.
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DEBTOR'S OBJECTION TO CLAIM 10 OF INTERNAL REVENUE SERVICE

TO: HON. CARLA E. CRAIG
UNITED STATES BANKRUPTCY JUDGE

MICHAEL J. MACCO,
CHAPTER 13 TRUSTEE

OFFICE OF THE UNITED STATES ATTORNEY
EASTERN DISTRICT OF NEW YORK

INTERNAL REVENUE SERVICE
P.O. Box 7346
Philadelphia, PA 19101-7346

INTERNAL REVENUE SERVICE
2 Metrotech Center
Brooklyn, New York 11201

Debtor, by undersigned Counsel, for his motion pursuant to 11 U.S.C. 502(b) and Fed. R. Bankr. P. 3007, objecting to the claim of Internal Revenue Service ("Creditor"), designated Claim 10 on the Claims Register, filed August 2, 2018 in the total amount of \$27,110.85 ("Claim 10"; a copy is annexed as Exhibit A), and for an order allowing an administrative claim for Debtor's Counsel Ronald D. Weiss in the amount of \$650.00, sets forth the following:

1. Debtor filed a petition under Chapter 13 on April 16, 2018. The undersigned's office appeared as counsel to the Debtor.

2. The proof of claim for Claim 10 was filed on behalf of the Internal Revenue Service, on August 2, 2018 in the total amount of \$27,110.85. The Claim 10 Proof of Claim is

annexed as **Exhibit A**. The Proof of Claim designates that \$17,810.86 is unsecured priority claim and \$9,299.99 is an unsecured general claim. The claim refers to the tax period of 12/31/15 as pending examination and 12/31/17 unassessed no return. The Debtor submits that the Debtor has filed tax returns for 2015 and 2017 and the tax liability should be fixed by the Internal Revenue Service. The Debtor also disputes the unsecured general claim for penalties for the tax year 12/30/11 assessed on 5/14/2012.

3. Accordingly, Debtor submits that Claim 10 should be denied and expunged until the Internal Revenue Service amends the claim.

4. Debtor's Counsel respectfully requests an administrative claim allowance in the amount of \$650.00 for preparation, drafting, research, service, and anticipated appearance in support of this motion. Counsel respectfully reserves the right to supplement this request if an evidentiary hearing is scheduled. This motion was not included in the fees paid under the pertinent retainer agreement or Rule 2016(b) disclosure.

5. Debtor respectfully requests waiver of the requirement of a separate memorandum of law.

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WHEREFORE, Debtor respectfully requests that the Court enter an order disallowing and expunging Claim 10 of the Internal Revenue Service, in its entirety, and allowing an administrative claim for Debtor's Counsel in the amount of \$650.00, together with such other and further relief as the Court deems just and proper.

Dated: August 31, 2017
Melville, NY

/s/ Ronald D. Weiss
RONALD D. WEISS P.C.
Attorneys for Debtor
734 Walt Whitman Road
Melville, NY 11747
(631) 271-3737